

WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re:

WAVERLY GARDENS OF
MEMPHIS, LLC,

Case No. 08-30218-PJD

KIRBY OAKS INTEGRA, LLC,
d/b/a WAVERLY GLEN,

Case No. 08-30221-PJD

Debtors.

Chapter 11
Jointly Administered

SHELBY COUNTY TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO PAY
POST-PETITION AD VALOREM PROPERTY TAXES

TO THE HONORABLE COURT:

NOW COMES the Shelby County Trustee ("Shelby County") and moves for dismissal of the above bankruptcy proceedings on the following grounds:

1. Debtors filed Voluntary Petitions under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") on October 2, 2008.
2. "Cause," as contemplated by 11 U.S.C. § 1112(b)(1), exists to dismiss the instant Chapter 11 case .
3. According to the records of the Shelby County Trustee, Debtors have failed to pay ad valorem property taxes assessed for tax years 2009 and 2010.
4. Debtor's 2009 ad valorem property taxes became due and payable on or about October 1, 2009, and became delinquent on March 1, 2010. Debtor's 2010 property taxes became due and payable on or about October 1, 2010 and became delinquent on March 1, 2011.
5. As of April 30, 2011, the amount of unpaid post petition taxes owed by Debtors to Shelby County totals \$154,181.80. copies of the relevant tax bills are attached hereto and incorporated herein by reference.
6. The non-payment of taxes is expressly covered by 11 U.S.C. § 1112 (b)(4)(I) as a type of "cause" for dismissal or conversion ("failure timely to pay taxes owed after the date of the order for relief . . .").

WHEREFORE, Shelby County requests as follows:

1. That these bankruptcy proceedings be dismissed.
2. For such other relief as appropriate.

Dated: April 29, 2011

Respectfully submitted,

/s/ Elijah Noel, Jr.
Elijah Noel, Jr. (BPR # 8655)
Delinquent Tax Attorney
160 N. Main St., 2nd Floor
Memphis, TN 38103
(901) 545-3084

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all parties by electronic notice or U.S. Mail on the date of filing.

/s/ Elijah Noel, Jr.
Elijah Noel, Jr.